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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 10/071,996 | 02/07/2002 | Steven A. Weiss | 02511 | 2021 |

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02/11/2004

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EXAMINER

MOSSER, ROBERT E

ART UNIT

PAPER NUMBER

3714

DATE MAILED: 02/11/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

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| | | | |
|------------------------------|------------------------|---------------------|--|
| Office Action Summary | Application No. | Applicant(s) | |
| | 10/071,996 | WEISS, STEVEN A. | |
| | Examiner | Art Unit | |
| | Robert Mosser | 3714 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-23 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 20 May 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
- a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) <u>4</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Regarding claim 1, the word "means" is preceded by the word(s) "game playing" in an attempt to use a "means" clause to recite a claim element as a means for performing a specified function. However, since no function is specified by the word(s) preceding "means," it is impossible to determine the equivalents of the element, as required by 35 U.S.C. 112, sixth paragraph. See *Ex parte Klumb*, 159 USPQ 694 (Bd. App. 1967).

Specifically the presented scope is unclear as it may merely represent an input means for the gaming device, a display device, or any other mechanical, electrical, or computational device associated with the gaming device.

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1, 7, and 13-22 are rejected under 35 U.S.C. 102(b) as being anticipated by Yamato et al (US 5,680,534) and Hibino et al (US 5,599,231) incorporated by reference in Yamato et al.

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3. Regarding claims 1,7,13, and 18. Yamato et al teaches a video graphics fabrication system including a gaming device with a game means for playing a game (Figure 1A), a game data player (Figures 2A, 2B), a game data collector forming a plurality of game data files (equivalently described as game design files and ordered set of game data files) defining a game (Figure 37), and an authoring system responsive to game designer inputs to form game data files used by said game data collector in forming said plurality of game data files (collecting step) (Figures 9-12), wherein said game data files being transferred from said game data collector to said game data player and said game data player producing a set of instruction commands from said game data files for causing said gaming device to play a game (Figures 20-21).

The limitation of a data player connected to and controlling the gaming device recited in at least claim 7, is considered implicitly shown in the figures cited above and in elements 5 and 7. The limitation of sequentially interpreted commands presented in at least claim 13 is shown in figure 38A of Yamato et al with a single branch flow diagram describing the processing of the main program routine. Allowing the use of a plurality game design files, game data files sets, and games as presented in at least claim 18, is understood to be shown in figures 20, 27, 32, and elements 395 and 397.

4. Regarding claims 14, 15, 19, and 20. Hibino et al teaches the inclusion the use of a unique data formatting and file compression methodology (Col 18:2-28). The unique data formatting presented in at least claim 14 is understood as the claimed first level security code and the claimed reading and validation is understood to be the ability

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of the machine to read the data. The data compression and associated decompression means presented in at least claim 15, are understood as encompassed by the described unique data compression methodology.

5. Regarding claims 16, and 21. Hibino et al teaches the use of an ID code for validating the use of the software and disables file operations incase of an Id check fail (Col 18:22-25). This reads on means for adding a second level security code following data compression wherein the data player includes means for validating said second level security code prior to decompression.

6. Regarding claims 17 and 22. Yamato et al teaches the use of a Super NES video game system for executing a game (Col 8:59-9:8 & Col 12:25-14:24) and allowing the user to edit the game then return to game play. This reads on including the step of simulating game play following said collecting step.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

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1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

7. Claims 2-6, 8-12, and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yamato et al (US 5,680,534) and Hibino et al (US 5,599,231) incorporated by reference in Yamato et al.

8. Regarding claims 2, and 8, Yamato et al teaches a video graphics fabrication system including a gaming device, but is silent as to this game device being a slot machine. It would have been obvious to one of ordinary skill in the art at the time of invention to use a slot machine as a game device in the invention of Yamato et al in order to allow the rapid development of slot machine games with only elementary understanding of programming (Col 2:4-32). *Video slot machines are video games.*

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9. Regarding claims 3, and 9, Yamato et al teaches a video graphics fabrication system further including a set of game authoring tools (Figures 9, 10, 11) executable on a personal computer (Figures 1b, 2a, 2b), a plurality of selectable game scripts (Figure 18) , and a game simulator coupled to said game data collector for causing said personal computer to simulate play of said game(Col 1:5-16).

10. Regarding claims 4, 5, 10, and 11. Hibino et al teaches the inclusion the use of a unique data formatting and file compression methodology (Col 18:2-28). The unique data formatting presented in at least claim 4 is understood as the claimed first level security code and the claimed validation means would be the ability of the machine to read the data. The data compression and associated decompression means presented

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in at least claim 5 is understood as included features of the described unique data compression methodology.

11. Regarding claims 6 and 12. Hibino et al teaches the use of an ID code for validating the use of the software and disables file operations incase of an Id check fail (Col 18:22-25). This reads on means for adding a second level security code following data compression wherein the data player includes means for validating said second level security code prior to decompression.

12. Claim 23 is rejected under 35 U.S.C. 103(a) as being unpatentable over Yamato et al (US 5,680,534) in further view of Van Praag (5,283,737).

Yamato et al is silent on the parsing, preprocessing, and tokenizing of data, however Van Praag disclose the use of such techniques for the handling of data in a computer language tool (Col 3:21-39) for accelerating the development of computer interfaces by dividing the inputted data into it's components. It would have been obvious to one of ordinary skill in the art at the time of invention to have incorporated the above described techniques of Van Praag in the system of Yamato et al in order separate the stored data into components thus providing a data packet size which is more readily transferable.

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Conclusion

The following prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

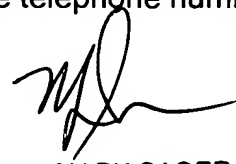
Hibino et al (US 5,599,231) discloses security systems for a videographics and authentication game/program fabrication device.

Stevlovsky (US 5,782,692) discloses a time-segmented multimedia game playing and authoring system.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert Mosser whose telephone number is (703)-305-4253. The examiner can normally be reached on 8:30-4:30 Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tom Hughes can be reached on (703) 308-1806. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1148.


MARK SAGER
PRIMARY EXAMINER

REM